

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ELADIA DUCHIMAZA, *on behalf of herself and all others  
similarly situated,*

Plaintiffs,

-v-

NIAGARA BOTTLING, LLC,

Defendant.

21 Civ. 6434 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On October 1, 2021, defendant filed a motion to dismiss the complaint under Rule 12 of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by October 22, 2021. No further opportunities to amend will ordinarily be granted. If plaintiff does amend, by November 12, 2021, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.<sup>1</sup>

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by October 22, 2021. Defendant's reply, if any, shall be served by November 5, 2021. At the time any reply is served, the moving party shall supply the

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<sup>1</sup> If defendant files a new motion to dismiss or rely on their previous motion, plaintiff's opposition will be due 14 days thereafter, and defendant's reply, if any, will be due seven days after that.

Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to [EngelmayerNYSDChambers@nysd.uscourts.gov](mailto:EngelmayerNYSDChambers@nysd.uscourts.gov).

The Court will determine later, after receipt of plaintiff's anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: October 4, 2021  
New York, New York